

## REMARKS

Claims pending in the instant application are numbered 1-34. Claims 1-34 presently stand rejected. Claims 1, 22, 25 and 30 have been amended. The Applicant respectfully requests reconsideration of the present application in view of the amendments and the following remarks.

### *35 U.S.C. § 102 Rejections*

Claims 1-34 are rejected under 35 U.S.C. § 102(e) as being anticipated by Edholm, U.S. Pub. No. US2003/0067940.

A claim is anticipated only if each and every element of the claim is found in a reference (M.P.E.P. § 2131 citing *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628 (Fed. Cir. 1987)). The Applicant respectfully submits that the cited reference fails to disclose each and every element of the claimed invention.

Claim 1 as presently amended expressly recites:

“monitoring a level of a packet queue of a protocol stack at a machine; and  
disabling a normal incoming packet procedure at the machine in response to the level of the packet queue satisfying an entry condition and enabling an alternate incoming packet procedure at the machine, the alternate incoming packet procedure including indicating new packets received at the machine, if any, to the protocol stack at an indication rate in response to a packet processing rate and altering the indication rate in response to the

level of the packet queue satisfying one or more secondary conditions, if any” (emphasis added).

Edholm is directed to end node pacing. In Edholm’s pacing system, the receiving device defines a predetermined bandwidth. The transmission rate of the transmitting device is maintained within the predetermined bandwidth of the receiving device by adjusting the latency time between transmitted packets ([0024] and [0025]).

When the bandwidth limitations at the receiving device have been exceeded, control application 332 waits before placing a packet in the transmit queue of the transmitting device. When the bandwidth limitations have not been exceeded, the packet is transmitted by the transmitting device ([0029] and [0030]). Thus, in Edholm, the transmit queue located at the transmitting device is associated with the rate packets are received at the receiving device. However, Edholm does not disclose changing incoming packet procedures of a device based at least in part on a packet queue of the same device.

Thus, Edholm fails to disclose “monitoring a level of a packet queue of a protocol stack at a machine; and disabling a normal incoming packet procedure at the machine in response to the level of the packet queue satisfying an entry condition and enabling an alternate incoming packet procedure at the machine” as expressly claimed by the Applicant.

Thus, Edholm fails to disclose at least one of the expressly recited limitations of claim 1. Accordingly, the present invention is not anticipated by Edholm. Independent claims 22, 25, and 30 distinguish for at least the same reasons as claim 1. Claims 2-21, 23-24, 26-29 and 31-34 are dependent claims and distinguish for at least the same reasons as

their independent base claims in addition to adding further limitations of their own.

Therefore, the Applicant respectfully requests that the instant § 102 rejections be withdrawn.

*Conclusion*

The Applicant submits that in view of the amendments and remarks set forth herein, all pending claims are in condition for allowance. Therefore, the Applicant respectfully requests the Examiner to issue a Notice of Allowance in this case.

*Charge Deposit Account*

Please charge our Deposit Account No. 02-2666 for any additional fee(s) that may be due in this matter, and please credit the same deposit account for any overpayment.

Respectfully submitted,

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